

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States Courts
Southern District of Texas
FILED

JUN 3 2015

David J. Bradley, Clerk of Court

United States of America

v.

Mark Duesterberg

Case No.

H15-752 M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 29, 2015 in the county of Fort Bend and Harris in the
Southern District of Texas, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
Title 26 U.S.C. 5861 (d)	To receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record.
Title 26 U.S.C. 5861 (f)	To make a firearm in violation of the provisions of this chapter (U.S.C. 5861).
Title 18 U.S.C. 922 (o)	It shall be unlawful for any person to transfer or possess a machinegun.

This criminal complaint is based on these facts:

I, Matthew G Abowd, being first duly sworn on oath, state that:

I am a Special Agent for the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives ("ATF"), working in Houston, Texas, and have been so employed since 1999. I have ten years prior law enforcement

☒ Continued on the attached sheet.

approved for filing
[Signature]
Asst

[Signature]
Complainant's signature
Matthew Abowd SA
Printed name and title

Sworn to before me and signed in my presence.

Date: 6-3-15City and state: Houston, TX

[Signature]
Judge's signature
Nancy Johnson
Printed name and title

DEFENDANT'S
EXHIBIT3
C No H-15-651

experience as a Police Officer and Investigator for the Houston Police Department. I have received specialized training in the enforcement of laws concerning federal firearms violations and narcotics violations as they relate to firearms, and have been involved in various types of electronic surveillance and the debriefing of defendants, witnesses, informants, and others who have knowledge of the illegal possession and use of firearms and controlled substances. Additionally, I have received training in explosives and I am currently completing the Certified Explosives Specialist (CES) Program through ATF. I am assigned to the Houston Field Division, Arson and Explosives Group, and in the course of my work I investigate violations of federal explosives and firearms laws as they relate to individuals involved in the use or carrying of firearms and or explosives during acts of violence, drug trafficking while armed, the illegal possession of a firearm by a prohibited person and the possession of machineguns, which are violations of 26 U.S.C. 5861 (d) and 5861 (f) and 18 U.S.C. 922 (o). Additionally, I have had training in the identification of "Pipe Bombs" and "Destructive Devices" and through the course of the last twenty-six years have investigated individuals who have been in possession of such.

The following information is known to your affiant by personal contact or the review of official reports:

On May 29, 2015, at approximately 1:00 am, Sugarland Police Department, while conducting an internet child sex solicitation investigation, arrested Mark DUESTERBERG, WM/7-11-1982, of 3114 Ribbon Creek Way, Spring, Texas, in the 1600 block of Jo Ann Lane, Sugar Land, Texas. Search of his vehicle incident to arrest resulted in the discovery of seven pipe bombs (destructive devices) described as:

- One (1) pipe bomb 4" long and 3/4" wide, constructed of a galvanized steel pipe nipple and cast iron end caps, end primed with green pyrotechnic fuse
- One (1) pipe bomb 6 3/4" long and 3/4" wide, constructed of a galvanized steel pipe nipple and cast iron end caps, end primed with green pyrotechnic fuse
- Three (3) pipe bombs 4" long and 3/4" wide, constructed of PVC pipe nipples and end caps, end primed with red pyrotechnic fuse
- Two (2) pipe bombs 2 1/2" long and 1/2" wide, constructed of PVC pipe nipples and end caps, end primed with green pyrotechnic fuse

Houston Police Department (HPD) Bomb Squad responded and took custody of the pipe bombs. X-rays indicated that the pipe bombs contained both steel pellets and explosive powder.

Special Agent David Bock and HPD Officer Amato interviewed Mark DUESTERBERG at the Sugar Land Police Department. The interview was video recorded. SA Bock advised DUESTERBERG of his constitutional rights, which he acknowledged and waived in writing, utilizing ATF F 3200.4, Advice of Rights and Waiver. DUESTERBERG then stated:

- He lived at 3114 Ribbon Creek Way, Spring Texas with his wife, Ashley, and their twelve-year-old daughter Paige.
- He made the pipe bombs in the garage of his residence over the last few days. The pipe bombs were in his truck because he intended to go to Lake Livingston the following weekend and blow them up in the water.

- The pipe bombs contained pyrodex (triple F grade), which he purchased during the previous month at Gander Mountain store on I-45 in Spring, Texas.
- He had the cannon fuse he used in the pipe bombs for several years; it burned at steady rate of 30 feet/second.
- He purchased the steel pipe and end caps from Home Depot and Ace Hardware
- He obtained the PVC pipes from residences in South Heights where he was working "rehabbing" homes. He worked for a friend named John (refused to provide last name), who had a home remodeling company.
- He attached the PVC end caps to the PVC pipe nipples with pipe cement and secured the fuses with silicone.
- He secured the steel end caps to the steel pipe nipples with Loctite, and drilled the end caps using a bit slightly smaller than the cannon fuse and then twisting the fuse to tightly insert it.
- He said he had a homemade cannon at his residence that his father made when he was a child; it had been used to shoot small Old Milwaukee beer cans.
- When asked, he refused to give SA Bock consent to search his residence.

On May 29, 2015, ATF agents conducted a search at 3114 Ribbon Creek Way, Spring, Texas. Immediately upon arriving at the residence, Special Agent Bock and Group Supervisor Gena Alvarez contacted Ashley Kristine Duesterberg, the wife of Mark DUESTERBERG, who had custody and control of the premises. Agents advised her of DUESTERBERG's arrest and his statements regarding making the pipe bombs in their garage, and requested consent to search the home. Ashley Duesterberg provided consent in writing utilizing ATF F 3220.11, Consent To Search.

Agents focused the search in the residence's garage. In a black Craftsman multi-drawer tool box on the east wall, agents found six steel pipe bombs of various sizes, all fuse initiated. In the same drawer as the pipe bombs, agents found a steel pipe nipple with one end cap attached, a roll of green pyrotechnic fuse, a receipt showing the online purchase of pyrotechnic fuse by Mark DUESTERBERG, and a roll of thread pipe tape. In other drawers of the Craftsman tool box, agents found an Estes model rocket motor with the initiator inserted, three 3" PVC pipe nipples, EMT type scissors, and a bag containing 5 PVC pipe nipples and a steel pipe nipple of various lengths. Adjacent and to the left of the Craftsman tool box, on top of a blue plastic tub, agents found a plastic bag containing 21 PVC pipe bombs of various sizes, all fuse initiated. Adjacent to the right of the Craftsman tool box was a red tool cabinet with a work area on top, slide-out drawers on the left and a two shelf cabinet on the right. On top of the tool cabinet, agents found a bottle of thread locker liquid; in a slide-out drawer, agents found a pipe wrench, vise-grip wrench and Craftsman channel lock pliers; in the cabinet agents found three one-pound containers of propellant powder: Winchester brand smokeless powder #296, Hodgdon brand pyrodex (black powder substitute) powder, and American Pioneer Powder brand FFF grade (black powder substitute) powder. On a black tubular shelf also the east wall, agents found containers of PVC primer and cement, and silicone tube in a caulk gun. The above items were retained by Special Agent Bock.

In a utility room between the garage and kitchen, agents observed a locked gun safe. Ashley Duesterberg provided what she thought was the safe combination. Prior to proceeding, Special Agent Matt Abowd contacted Harris County Assistant District Attorney Nathan Moss, who assisted in obtaining a State search warrant for the residence. Once the search warrant was obtained, the gun safe was opened using the combination provided. Inside, agents found a ROMARM 7.62 x 39mm rifle, model GP WASR-10/63, serial number FE4771-77, which, based upon examination and field testing, was found to have been converted to a machinegun. In the upstairs master bedroom, agents found an HP Compaq 8320 laptop computer which Ashley Duesterberg stated was used exclusively by Mark DUESTERBERG.

On June 1, 2015, Special Agent Abowd had the National Firearms Registration and Transfer Records queried for Mark Duesterberg by name and also the ROMARM 7.62 x 39mm rifle. The records check revealed that neither the pipe bombs (destructive devices) nor the ROMARM 7.62 x 39mm rifle, model GP WASR-10/63, serial number FE4771-77 machinegun were found to be registered to Mark Duesterberg, in violation of 26 U.S.C. 5861(d).

On June 1, 2015, Special Agent Abowd spoke with Special Agent Greg Alvarez and requested that he examine the ROMARM 7.62 x 39mm, rifle. Special Agent Alvarez has successfully completed the ATF Interstate Nexus School in 1995, the Advanced Interstate Nexus School in 2002, the Advanced Ammunition Nexus School in 2010 and has examined over 2500 firearms for the purpose of determining interstate nexus. He is a recognized expert witness in the United States District Courts, Southern, Western and Eastern Districts of Texas in the area of firearm and ammunition identification and origin. Upon examining the ROMARM 7.62 x 39mm rifle, model GP WASR-10/63, serial number FE4771-77, Special Agent Alvarez determined this firearm was indeed a machinegun, and it's possession was in violation of 26 U.S.C. 5861(D) and 18 U.S.C. 922 (o).



Sworn to and subscribed before me this
3rd day of June 2015


